GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal petition filed by Smt. Vanicherla Nagakshmi, W/o Bala Brahmachari, Stenographer, Bharath Heavy Plates and Vessels Ltd., Visakhapatnam Dist., against the Proceedings RC.C4/8114/89, dated 05.05.2004 of the District Collector, Prakasam - under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.Ms.No.69 Dated:04.06.2016.

Read the following:

1. Proceedings of the District Collector, Prakasam, RC.C4/8114/89, dated 05.05.2004.
2. Appeal Petition filed by Smt. Vanicherla Nagakshmi, W/o Bala Brahmachari, Stenographer, Bharath Heavy Plates and Vessels Ltd., Visakhapatnam Dist., dt.09.06.2004 before the Government.
3. Govt. Memo.No.4912/CV.2/2004, dt.06.12.2004 and reminders thereon.
4. From the District Collector, Prakasam, Lr.No.RC.C4/235/2005, dated 05.08.2010.
5. Govt. Memo. No.4912/CV.2/2004, dt.27.05.2015, 16.10.2015.
6. Govt. Memo. No.4912/CV.2/2004, dt.16.10.2015.

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ORDER:

In the reference 1st read above the District Collector, Prakasam has issued orders canceling ST- Kammara Caste Certificate obtained from the then Tahsildar, Giddalur in 1977 by Smt. Vanicherla Nagakshmi, W/o Bala Brahmachari.

2. In the reference 2nd read above, Smt. Vanicherla Nagakshmi, W/o Bala Brahmachari has filed an Appeal Petition before the Government against the said Proceedings of the District Collector, Prakasam. After examining the said Appeal Petition, Government have admitted & stay rejected and called for the parawise remarks and connected records from the District Collector, Prakasam in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, Prakasam has furnished the Parawise remarks and connected records on the said Appeal Petition filed by Smt. Vanicherla Nagakshmi, W/o Bala Brahmachari.

4. The said Appeal Petition has been posted for hearing on 20.06.2015 & 31.10.2015 and the same has been informed to the Appellant and the Counsel for the Appellant and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no claim what-so-ever in the matter and it will be decided based on the material available with the Government in the references 5th & 6th read above. The Appellant & Counsel for the Appellant have not attended for the said hearing as requested in the reference 6th read above, in spite of receipt of notices. Hence it is treated as heard.

5. On perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant and the parawise remarks submitted by the District Collector, Prakasam and proceedings of the District Collector, Prakasam dated 05.05.2004 the Appellate Authority has observed as follows:

I. The appellant has claimed that

a) She belongs to ST- Kammara community and her forefathers who are originally natives of Karnataka State migrated to Andhra Pradesh.

b) In her School Record Sheet of the appellant herein reflects her caste is recorded as “Hindu Kammari” and the said entry in the school record in the year 1964 is a clinching record.

[P.T.O]

II. Further it is observed that the RDO Markapur has conducted thorough enquiry on the Community Claim of the Appellant, in the vicinity of the area of appellant and stated that Sri Vanicherla Balabrahmachari and his wife Nagalakshmi Devi of Ardhaveedu Village, belongs to Viswabrahmin "Kamsali" by caste and comes under Backward class but not Kammara caste under ST.

III. Further there is no evidence regarding the migration from Karnataka to Prakasam District as reported by the appellant. The RDO, Markapur has conducted local enquiry in the village, the villagers have stated that the appellant's are residing for long time, and by birth they belong to Viswabrahmin caste, and they are doing Vadrangam and vegetarians.The claim of the appellant that she belongs to Kammara caste is baseless and gave false and wrong information to the Tahsildar and got false ST quota, for securing employment against ST certificate instead of their eligible BC quota. In this regard the MRO, Ardhaveedu himself stated that V.Bala Brahmachari belongs to Kammara B.C. As seen from the school certificates issued by the Head Master on 10.09.89, he belongs to Vadrangi by caste(Viswabrahmin) also as per Birth Register he belongs to Kamsali BC by caste. There is no evidence that they belong to ST- Kammara. The Tahsildar, Giddalur has issued a false caste certificate of ST-Kammara to them basing on the report of subordinates and it can't be considered to be a valid or genuine certificate.

IV. The RDO Markapur has enquired and also reported that, in the rural areas the Viswabrahmins are the professionals in Kamsali, Kammara, Vadrangi, (Carpenter) and Silpi(Sculptures) traditional activities and all the professionals belong to broad Viswabrahmins category. Hence, the claim of the petitioner belonging to Kammara ST is base less. The candidate and his forefathers by birth belong to Viswabrahmin B.C. by caste. But they have cheated the Govt. and secured benefits earmarked under ST quota even though they are originally B.Cs.

V. The Revenue Divisional Officer, Markapur has also stated that the appellant's husband born on 15.04.1954. In the Birth Register of Ardhaveedu, his caste was recorded as Kamsali and Sri V.V. Subbaiah the father of Sri V. Bala Brahmachari was the informer as per the entries made in the Birth Register of 1954 of Ardhaveedu Village. In column No.7 of the admission Register of Panchayat Samithi Elementary School, Aradhaveedu Sri V. Bala Brahmachari was recorded as "Vadrangi".

VI. Further the Appellant did not evince any interest in prosecuting the appeal, despite grant of several adjournments by Government as her claim is false and fraudulent.

6. The Government have also examined the community claim of the appellant as per the Rules/Guidelines framed by Government of India in Circular No. 35/1/72-R.U.(SCT.V) dated:2nd May 1975 on issuance of Community Certificates and adopted by the State Government vide Circular Memo.No.10956/CV.1/1997-2, dated: 16-02-1998 :

(i) <u>In Cases of Migration</u> Where a person migrates from one state to another, he can claim to belong to Scheduled Caste or a Scheduled Tribe only in relation to the State to which he originally belonged and not in respect of the State to which he has migrated.

(ii) <u>In Claims through marriage</u> the guiding principle is that no person who was not a Scheduled Caste or a Scheduled Tribe by birth will be deemed to be a member of a Scheduled Caste or a Scheduled Tribe merely because he or she had married a person belonging to a Scheduled Caste or a Scheduled Tribe.

In the instant case the appellant reported that her forefathers hails from Karnataka State and they have migrated to Prakasam District. As per the said Circular she cannot claim as ST-Kammara in A.P. State on migration basis. Further, she cannot claim ST(Kammara) Certificate through marriage with a ST person, even though her husband belongs to Scheduled Tribe and also in the instant caste as per the DLSC findings and other reports the Appellant's husband also belong to "BC-Kamsali" not "ST-Kammara". Therefore her claim as ST community deserves to be rejected.

[Contd…]

7. Further it is also observed that in principle the Government is receiving any documents even at the time of final arguments and considering the same in order to ensure that justice is done to the parties more so to those who complain that reasonable opportunity is not given to them by the Primary Authority. But no documents are placed before Government, in spite of grant of several adjournments by the Appellant to prove that there is migration from Karnataka State to Prakasam District. No evidence is placed before the Government to show that the appellant belongs to ST-Kammara community. Further, a old evidence of Appellant is self defeating. The burden, on the Appellant U/S 6 is not discharged. The Appellant has not evinced any interest in the matter, as her claim is false and fraudulent. Hence she is determined to protect the appeal for as long time as possible. Hence Government have examined the entire record & material relevant to the instant case and it is decided that the appellant obtained caste certificate fraudulently and he has no iota of evidence to show that she belongs to ST-Kammara Community. The appeal is devoid of any merits and the Government did not find any infirmity in the Judgment of the respondent.

8. The Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decided that the Appeal Petition filed by Smt. Vanicherla Nagakshmi, W/o Bala Brahmachari does not deserve any interference. Hence, Proceedings of the District Collector, Prakasam issued vide RC.C4/8114/89, dated 05.05.2004, is hereby upheld and the Appeal Petition filed by Smt. Vanicherla Nagakshmi, W/o Bala Brahmachari, is hereby dismissed and the Certificate issued by the then Tahsildar, Giddalur deemed to be cancelled.

9. Consequently, the District Collector, Prakasam shall take necessary action in the matter.

10. The records (containing RC.C4/8114/89, dated 05.05.2004 pages NF: 1 to 45 & CF:1 to 252) received from the District Collector, Prakasam through 4th read above, are returned herewith in original to the District Collector, Prakasam and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

RAM PRAKASH SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Prakasam(w.e)
(with original records)(BY RPAD)
Smt. Vanicherla Nagakshmi Devi, W/o Bala Brahmachari,
Stenographer, Bharath Heavy Plates and Vessels Ltd.,
Visakhapatnam District.
Dr. P.B. Vijay Kumar, Advocate,
Vijaya Pratap Apartments, A-3 & 9,
D.No. 1-9-312/6/A & B, Atchutma Reddy Marg,
Vidyanagar, Hyderabad – 500044.

Copy to:
The Managing Director, Bharath Heavy Plates and Vessels Ltd.,
Visakhapatnam Dist.
The Director, TCR & TI, Hyderabad.
The P.S. to M(SWE&TWE)
The P.S. to Prl. Secretary(TW)

// FORWARDED:: BY ORDER //

SECTION OFFICER